

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 1433 w/CS Service Warranty Associations  
**SPONSOR(S):** Domino  
**TIED BILLS:** **IDEN./SIM. BILLS:** SB 2366

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REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Insurance Regulation (Sub)	12 Y, 0 N	Cheek	Cooper
2) Insurance	22 Y, 0 N w/CS	Cheek	Cooper
3)			
4)			
5)			

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### SUMMARY ANALYSIS

Under chapter 634, F.S., "service warranty association" means a person, other than an authorized insurer, issuing service warranties (e.g., motor vehicle agreements, home warranties, or service warranties) to residents of the State of Florida. The Office of Insurance Regulation (office) must license a service warranty association. Under part III, chapter 634, service warranty associations must maintain either a funded, unearned premium reserve account, consisting of unencumbered assets equal to a minimum of 25 percent of the gross written premiums received on all warranty contracts in force (and a reserve deposit to the department equal to 10 percent of the gross written premium received on all warranty contracts in force) or purchase contractual liability insurance that demonstrates to the satisfaction of the office that 100 percent of its claim exposure is covered by such policy. No such warranty seller may allow its gross written premiums in force to exceed a 7-to-1 ratio of net assets.

The National Association of Insurance Commissioners (NAIC) Service Contracts Model Act provides a uniform financial requirement among states by providing an additional option to maintain solvency. The bill proposes to conform to the model act by providing that a service warranty association is not required to establish an unearned premium reserve or maintain contractual liability insurance and may allow its premiums to exceed the ratio-to-net-assets limitation, if the association is a wholly owned subsidiary of a parent corporation that satisfies the following:

- It is listed and traded on a recognized stock Exchange, listed in the National Association of Security Dealers Automated Quotation system, and publicly traded over the counted securities markets; it is required to file Form 10-K, Form 10-Q, or Form 20-G with the U.S. Securities and Exchange Commission; or its American Depository Receipts are listed on a recognized stock exchange and are publicly traded.
- It maintains outstanding debt obligation, if any, rated in the top four categories by a recognized rating service.
- It maintains, at all times, a minimum net worth of at least \$100,000,000, as evidenced by certified financial statements prepared by an independent certified public accountant in accordance with generally accepted accounting principals. The bill requires a parent company that maintains the \$100 million solvency option on behalf of the warranty association to issue a guarantee agreement for the payment of all claims of the warranty association.
- It is authorized to do business in this state.

The bill also allows automobile, home, and consumer goods warranty association sales representatives to rebate commissions on the sale of service warranties to consumers. The bill does not appear to have a fiscal impact.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

**STORAGE NAME:** h1433b.in.doc  
**DATE:** March 15, 2004

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. DOES THE BILL:

- |                                      |                              |                             |   |
|--------------------------------------|------------------------------|-----------------------------|---|
| 1. Reduce government?                | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. Lower taxes?                      | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom?        | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families?                 | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a “no” above, please explain:

#### B. EFFECT OF PROPOSED CHANGES:

##### Background

Under chapter 634, F.S., “service warranty association” means a person, other than an authorized insurer, issuing service warranties (e.g., motor vehicle service agreements, home warranties, or service warranties) to residents of the State of Florida. The Office of Insurance Regulation (office) must license a service warranty association.

Under part III, chapter 634, service warranty associations must either maintain a funded, unearned premium reserve account, consisting of unencumbered assets, equal to a minimum of 25 percent of the gross written premiums received on all warranty contracts in force (and a reserve deposit to the department equal to 10 percent of the gross written premium received on all warranty contracts in force) or purchase contractual liability insurance that demonstrates to the satisfaction of the office that 100 percent of its claim exposure is covered by such policy. No such warranty seller may allow its gross written premiums in force to exceed a 7-to-1 ratio of net assets.

##### Major Changes to Current Law

The National Association of Insurance Commissioners (NAIC) Service Contracts Model Act provides a uniform financial requirement among states by providing an additional option to maintain solvency. The bill proposes to conform to the model act by providing that a service warranty association is not required to establish an unearned premium reserve or maintain contractual liability insurance and may allow its premiums to exceed the ratio to net assets limitation if the association is a wholly owned subsidiary of a parent corporation that satisfies the following:

- It is listed and traded on a recognized stock Exchange, listed in the National Association of Security Dealers Automated Quotation system, and publicly traded over the counted securities markets; it is required to file Form 10-K, Form 10-Q, or Form 20-G with the U.S. Securities and Exchange Commission; or its American Depository Receipts are listed on a recognized stock exchange and are publicly traded.
- It maintains outstanding debt obligation, if any, rated in the top four categories by a recognized rating service.
- It maintains, at all times, a minimum net worth of at least \$100,000,000, as evidenced by certified financial statements prepared by an independent certified public accountant in accordance with generally accepted accounting principals. In addition, the bill requires a parent company that

maintains the \$100 million solvency option on behalf of the warranty association to issue a guarantee agreement for the payment of all claims of the warranty association.

- It is authorized to do business in this state.

The bill also allows automobile, home, and consumer goods warranty association sales representatives to rebate commissions on the sale of service warranties to consumers. This concept is already in statute for insurance agents, and this bill follows that precedent. Sales representatives must not discriminate between customers on any rebate; must maintain rebate schedules on file with the warranty association for the Office of Insurance Regulation to review; and must display the rebate schedule prominently.

C. SECTION DIRECTORY:

Section 1: Amends s. 634.406, F.S. relating to *Financial requirements*.

Section 2: Provides an effective date of upon becoming law.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

There may be some administrative cost savings if service warranty associations are not required to establish an unearned premium reserve or maintain contractual liability insurance and may allow premiums to exceed the ratio-to-net-assets limitation if the association is a wholly owned subsidiary of a parent corporation that satisfies the requirements of the bill.

D. FISCAL COMMENTS:

None.

## III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

Not applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

#### **IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES**

On March 11, 2004, the Committee on Insurance Regulation adopted a strike-all amendment. The amendment incorporates everything in the bill and also makes the following changes:

- Allows automobile, home, and consumer goods warranty association sales representatives to rebate commissions on the sale of service warranties to consumers.

*[This concept is already in statute for insurance agents, and this bill follows that precedent. Sales representatives must not discriminate between customers on any rebate; must maintain rebate schedules on file with the warranty association for the Office of Insurance Regulation to review; and must display the rebate schedule prominently.]*

- Requires a parent company that maintains the \$100 million solvency option on behalf of the warranty association to issue a guarantee agreement for the payment of all claims of the warranty association.

*[Before a parent company may terminate the guarantee agreement, 90-days notice must be given to the Office of Insurance Regulation. No cancellation of a guarantee agreement is effective unless written approval to terminate is granted by the Office of Insurance Regulation. Finally, when a parent corporation is meeting the new solvency test, the warranty association must increase its net assets to \$750,000.]*